

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6691

BILL NUMBER: SB 222

NOTE PREPARED: Jan 29, 2004

BILL AMENDED:

SUBJECT: Names of Banks.

FIRST AUTHOR: Sen. Long

FIRST SPONSOR:

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: The bill permits the Secretary of State to administratively dissolve a business entity whose name contains the term "banc" or "banco" in violation of financial institutions law. (Current law allows the Secretary of State to take this action in the case of an entity whose name contains the term "bank".) The bill permits the use of the word "bank", "banc", or "banco" in the name of a subsidiary of : (1) a bank or trust company; and (2) a bank holding company.

Effective Date: July 1, 2004.

Explanation of State Expenditures: *Summary:* Under the bill, the Secretary of State would be required to take action to dissolve a business entity for use of the terms *banc* or *banco*. Given that nonauthorized business entities may not use the terms *banc* or *banco* under current financial institutions law, the fiscal impact to state expenditures under the provision should be minimal.

Background: Under current law (P.L. 277-2001), the Secretary of State is required to hold a proceeding against business entities illegally using the term *bank*. Current law also requires the Department of Financial Institutions to make the determination if a business entity has violated the general provisions for banks and trust companies including IC 28-1-20-4. Under IC 28-1-20-4, a person, firm, limited liability company, or corporation other than a bank or trust company, bank holding company, or a corporate fiduciary may not use the terms *bank*, *banc*, or *banco* within the entity's name or title. Violators of this section are fined a penalty of \$500 per day over the duration of the violation.

There have been a handful of actions that the Department of Financial Institutions has taken against entities illegally using the term *bank* since P.L. 277-2001 was enacted. The Secretary of State reports that they process an average of 1,200 administrative dissolutions per month for all reasons. The vast majority of

dissolutions are for nonpayment of business entity filing reports. There are no known occurrences of a dissolution for the illegal use of the name *bank* in CY 2003 to date.

Explanation of State Revenues: *Summary:* The bill would amend IC 28-1-20-4. The bill's provision would widen the scope of entities that would be able to use the terms *banc* or *banco* to include a subsidiary of either a bank/trust company or a bank holding company. Potentially, this provision could reduce the number of penalties placed against violators. The impact of this provision to state revenue should be minimal.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Financial Institutions, Secretary of State.

Local Agencies Affected:

Information Sources: John Schroeder, Department of Financial Institutions; Liz Keele, Corporations Division, Secretary of State.

Fiscal Analyst: Chris Baker, 317-232-9851.